

REQUEST FOR PROPOSAL

For

The

OFFICE OF SMALL BUSINESS

TRUSTEE SERVICES

SEL02-00135

Released: May 2, 2003

May 2, 2003

To All Prospective Bidders:

The attached multi-year Request for Proposal (RFP) solicits trustee services in support of the California Technology, Trade and Commerce Agency's overall goal to develop the State's economic base and increase job creation in California.

All proposals will be reviewed and evaluated as per Section V, Minimum Qualifications and Section VI, Selection Process and Evaluation Criteria of this RFP. Award of the contract shall be based on the lowest bid quote. Each proposer must submit a sealed bid and establish, in writing, the degree to which it has the capability to achieve or meet the stated requirements and work standards.

Sincerely,

Karen Kawada
Office of Small Business
Voice Phone Number: 916-323-5825
Fax Phone Number: 916-322-3559
E-mail Address: kkawada@commerce.ca.gov

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SECTION I. INTRODUCTION

The California Technology, Trade and Commerce Agency requests proposals be submitted for the following purpose and in accordance with each of the terms and conditions in this Request for Proposal. The proposals will be evaluated by a committee within the Agency and scored according to responsiveness, as presented in SECTION VI, SELECTION PROCESS AND EVALUATION CRITERIA.

A. Purpose

The purpose of this RFP is to solicit proposals that will lead to the selection of a prime contractor to provide trustee services for the Agency's Office of Small Business.

B. Tentative Schedule

This tentative schedule may be altered at any time at the discretion of the Agency. All dates and times stated in this RFP are Pacific Standard Time.

Publication Date/Proposal Package Released	FRIDAY, MAY 2, 2003
Bidders' Conference (RSVP no later than 3 days before the conference)	MONDAY, MAY 19, 2003 10:00 A.M.
Proposers' Written Questions Due	TUESDAY, MAY 27, 2003 No later than 2:00 P.M.
Notice of Intent to Bid Due	TUESDAY, MAY 27, 2003 No later than 2:00 P.M.
Question and Answer Summary to be mailed to potential proposers on or near:	FRIDAY, JUNE 20, 2003
Proposal Due Date	FRIDAY, JULY 11, 2003 No later than 2:00 P.M.
Minimum Qualifications Review	JULY 14 – JULY 18, 2003
Evaluation by Scoring Committee	JULY 21 – AUGUST 5, 2003
Oral interviews, if applicable	AUGUST 11 – AUGUST 15, 2003
Public Bid Opening	TUESDAY, AUGUST 19, 2003 10:00 A.M.

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Agency Awards Contract and Posts Public Notice of Intent to Award (allows for five-day protest period)	AUGUST 20 – AUGUST 26, 2003
Contract in place when fully executed	OCTOBER 2003

SECTION I. INTRODUCTION

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C. Duration

The contract between the Agency and the successful proposer is expected to begin upon the date of contract approval by the California Department of General Services (approximately November 2003) and terminate on or near October 2006.

D. Fee

The total fee for services as trustee shall be calculated as a percentage of the funds in the Trust Account. This percentage includes all out-of-pocket costs, reimbursements, and service fees. Services shall be rendered for the 2003/04 fiscal year, the 2004/05 fiscal year, and the 2005/06 fiscal year, provided funding is appropriated in the Agency budget. Contract length will be dependent upon availability of funding, adequacy of previous performance, consistency of fee, and will be at the full discretion of the Agency.

E. Definition of Terms

This Request for Proposal contains the following terms, definitions and acronyms that have the following definitions:

1. **"Agency"** and **"State"** means the California Technology, Trade and Commerce Agency, an agency duly elected or appointed, qualified and acting on behalf of the State of California for this RFP.
2. **"DGS"** means the State of California Department of General Services.
3. **"FDC"** means a California Small Business Financial Development Corporation.
4. **"Material Deviations"** means a deviation from a requirement that is deficient if the response is not in substantial accord with the RFP requirements, provides an advantage to one proposer over other proposers, or has a potentially significant effect on the delivery, quantity or quality of items proposed, amount paid to the vendor, or on the cost to the Agency. Material deviations cannot be waived.
5. **"OSB"** means the Office of Small Business within the California Technology, Trade and Commerce Agency.

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E. **Definition of Terms** (continued)

6. **"Program"** means the Small Business Loan Guarantee Program.
7. **"Proposer"** and **"bidder"** means a contractor responding to this RFP.
8. **"RFP"** means this Request for Proposal, SEL02-00135.
9. **"Shall", "must", or "will"** (except to indicate future tense) indicates a mandatory requirement in the RFP.
10. **"Should" or "may"** indicates desirable attributes or conditions, but are non-mandatory in nature. Deviation from, or omission of, such a desirable feature, even if material, will not in itself cause rejection of the proposal.
11. **"Subcontractors"** means any party which the proposer wishes the Agency to include in its evaluation of the proposer's qualifications and capability must be labeled as a "partner" or "major subcontractor" (terms of similar nature are acceptable). All subcontractors are subject to the approval of the Agency.
 - a. Major subcontractors or partners are defined as businesses owned at least 51% by interests other than the proposer, and which will carry out major, critical portions of the SECTION IV, SCOPE OF WORK, in terms of responsibility, involvement and, in some instances, portions of the budget. These may be firms providing services or supplies. Major subcontractors operate under the direction of the proposer.
 - b. Minor subcontractors are defined as businesses executing less critical, less sensitive portions of SECTION IV, SCOPE OF WORK.

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SECTION II. BACKGROUND INFORMATION

A. California Technology, Trade and Commerce Agency

The California Technology, Trade and Commerce Agency is one of the agencies charged with implementing job creation development activities in California. The Agency was created out of the recognition that California, as the fifth largest economy in the world, must aggressively stay competitive and redouble its economic development efforts on both the domestic and international fronts. The mission of the Agency is to ensure that all its policy decisions are weighted against the effect they have on job creation, to operate as the chief marketing arm of California's economic development efforts, and to expand markets for all California products, domestically and worldwide.

The Agency's role in establishing a favorable business climate has become critically important in order to maintain a growing California economy. The Agency serves as the lead in promoting business development, job creation and job retention efforts in California. In pursuing its mission to improve California's economic climate, the Agency works closely with domestic and international businesses of all sizes, economic development corporations, minority business enterprises, chambers of commerce, regional visitor and convention bureaus, institutions of higher education, various permit-issuing state and municipal government agencies and the federal government.

B. California Office of Small Business, Small Business Loan Guarantee Program

OSB's Small Business Loan Guarantee Program began in 1968 under the Small Business Development Corporation Law (California Corporations Code, Section 14000 et seq.) and provides financial assistance to small businesses. Subsequent amendments to the law provided for the formation of non-profit Small Business Development Corporations, now renamed FDCs. OSB's Financial Assistance Unit partners with eleven (11) non-profit FDCs for the delivery of the Program to small businesses. The Program by issuing a repayment guarantee assists small businesses to qualify for loans when the business cannot otherwise obtain loans. These loans may be used for starting or expanding a business or for working capital.

The FDCs are organized to provide financial assistance to qualifying small businesses in the form of loan guarantees. Loan guarantees make up a large portion of financial assistance available to small businesses by the Agency. The loan guarantees are backed by state funds

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deposited in a Trust Account. Each FDC has a portion of the Trust Account in its corporate name which represents the net sum of the funds appropriated for that FDC, plus interest earned, minus corporate expenses paid by interest income, and pay-offs due to defaults of guaranteed loans and the trust account service fees.

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SECTION III. RULES AND CONDITIONS

A. General Information

The competitive bidding process being used for this procurement of services is the RFP two-tier method. Proposals will first be reviewed for compliance with SECTION V, MINIMUM QUALIFICATIONS. Those proposals that meet the minimum qualifications will then proceed to be evaluated in a two-tier process according to the criteria established in SECTION VI, SELECTION PROCESS AND EVALUATION CRITERIA. After meeting these requirements, the lowest bid will be awarded the contract.

Proposers should carefully review the requirements of this RFP, which includes a complete explanation of the Agency's needs that must be met, and instructions that prescribe the format of proposals as outlined in SECTION V, MINIMUM QUALIFICATIONS.

The Agency reserves the right to accept or reject any or all proposals received as a result of this RFP, to negotiate with any qualified firm, or to modify or cancel all or part of this RFP if it is in the interest of the Agency to do so.

B. Addenda

The Agency reserves the right to amend, alter or change the rules and conditions contained in this RFP prior to the deadline for submission of proposals. Addenda will only be sent to those potential proposers who submitted a timely Notice of Intent to Bid (see Paragraph F of this Section). Subsequent addenda must be followed. Proposers may contact Karen Kawada at (916) 323-5825 to verify receipt of all addenda related to this RFP.

C. Proposers' Costs

Costs for developing proposals are entirely the responsibility of the proposers and shall not be reimbursed by the State.

D. Bidders' Conference

The Bidders' Conference is designed to clarify the requirements of this RFP by providing answers to potential proposers' questions. Questions pertaining to this RFP may be presented

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in writing to the Agency prior to the Bidders' Conference and/or during the Bidders' Conference. Advance questions should be submitted by **FRIDAY, MAY 16, 2003 at 2:00 P.M.** and may be sent by mail, fax, or e-mail to the Agency at the location identified in Paragraph E of this Section. A team of Agency representatives will be present at the Bidders' Conference to address the items in question.

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D. Bidders' Conference (continued)

The Bidders' Conference will take place at the following location on **MONDAY, MAY 19, 2003, 10:00 A.M.** unless otherwise notified:

**California Technology, Trade and Commerce Agency
1102 Q Street, Suite 6000
Sacramento Conference Room
Sacramento, CA 95814**

The questions responded to during the Bidders' Conference will be included in the Agency's Question and Answer Summary (see Paragraph G of this Section), which will be sent only to those having submitted a timely Notice of Intent to Bid (see Paragraph F of this Section).

E. Written Questions

Proposers needing additional clarification (after the Bidders' Conference) of the requirements of this RFP must submit questions in writing. All inquiries must be received no later than **TUESDAY, MAY 27, 2003, 2:00 P.M.**, regardless of postmark. If questions are faxed or e-mailed, then the date and time **received** by the Agency must not be later than this due date and time.

Address written questions to:

**Karen Kawada
RFP SEL02-00135 Trustee Services
California Technology, Trade and Commerce Agency
Office of Small Business
1102 Q Street, Suite 6000
Sacramento, CA 95814**

FAX: (916) 322-3559 ♦ E-mail: kkawada@commerce.ca.gov

Questions, suggestions or objections regarding the content of the RFP not submitted in writing by the deadline of **TUESDAY, MAY 27, 2003, 2:00 P.M.**, shall be deemed waived and may not be raised at a later time.

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F. Notice of Intent to Bid

1. A Notice of Intent to Bid (Attachment I) must be received by the Agency no later than **TUESDAY, MAY 27, 2003, 2:00 P.M.**, regardless of postmark. The Notice of Intent to Bid may be faxed (confirmation receipt should be retained by the sender). The Notice of Intent to Bid shall not be e-mailed. If the Notice of Intent to Bid is faxed, then the date and time **received** by the Agency must not be later than the due date and time.
2. The Notice of Intent to Bid (Attachment I) shall be typed, completed in its entirety, and signed by an authorized representative of the proposing entity.
3. The Notice of Intent to Bid (Attachment I) shall be directed to the address identified in Paragraph E of this Section.
4. **PROPOSALS SHALL BE ACCEPTED ONLY FROM PROPOSERS WHO SUBMITTED A TIMELY NOTICE OF INTENT TO BID (ATTACHMENT I).**
5. The Notice of Intent to Bid is non-binding, however, it ensures the receipt of any and all inquiries, responses and addenda related to this RFP. Any correspondence or addenda originating after **TUESDAY, MAY 27, 2003**, will be mailed or faxed only to those potential proposers having submitted a timely Notice of Intent to Bid.

G. Question and Answer Summary

A summary of all potential proposers' written questions and the Agency's answers to those questions will be mailed on or near **FRIDAY, JUNE 20, 2003** only to those proposers having submitted a timely Notice of Intent to Bid. As indicated in Paragraph D of this Section, the Question and Answer Summary will also include the questions and answers from the Bidders' Conference.

Oral communications with State officers and employees shall be non-binding on the State and shall in no way exclude the proposers of obligations as set forth in this RFP.

H. Bid Quote

The proposal package must include a separate, sealed envelope containing one (1) Bid Quote (Attachment 3). This envelope must be clearly marked **"Bid Quote – Do Not Open Until August**

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19, 2003" with the proposer's name on both the envelope and on the Bid Quote (Attachment 3). Only one (1) Bid Quote (Attachment 3) may be submitted for each proposer. The Bid Quote must not be disclosed anywhere in the proposal except for on the Bid Quote (Attachment 3). ATTACHMENT 3, BID QUOTE shall not be altered.

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I. Delivery of Proposals

Deliver in a sealed package(s), six (6) typed copies of the proposal (one original signature and five copies) and one (1) separately sealed envelope containing the Bid Quote (Attachment 3), to the Agency at the address identified below, no later than **FRIDAY, JULY 11, 2003, 2:00 P.M.** Proposals shall not be faxed or e-mailed. Proposals cannot, by State law, be accepted after this time and date. Only one (1) sealed Bid Quote (Attachment 3), will be accepted from each proposer. The sealed package(s) containing the six (6) typed proposals and sealed Bid Quote must be labeled as follows:

RFP SEL02-00135 Trustee Services

**DO NOT OPEN UNTIL
Friday, July 11, 2003, 2:00 p.m.**

**Karen Kawada
California Technology, Trade and Commerce Agency
Office of Small Business
1102 Q Street, Suite 6000
Sacramento, CA 95814**

Proposals cannot, by State law, be accepted after this time and date and will be returned, unopened. Proposals received within the prescribed deadline become the property of the Agency and will not be returned.

All rights to the contents therein become those of the Agency. Creative materials, if applicable, may be returned at the Agency's discretion. The proposer must submit a written request and be prepared to pay postage. No materials will be returned prior to an executed, approved contract.

J. Public Bid Opening

The Public Bid Opening will take place **TUESDAY, AUGUST 19, 2003, 10:00 A.M.** at the California Technology, Trade and Commerce Agency. Those interested in attending the Public Bid Opening are asked to RSVP to Karen Kawada at (916) 323-5825 to obtain room information.

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K. Grounds For Rejection

The Agency reserves the right to waive any immaterial deviation in a proposal; however, the waiver of an immaterial deviation in a proposal shall in no way modify the document or excuse the proposer from full compliance with the proposal requirements after the proposer is awarded the contract (see SECTION I, INTRODUCTION, Paragraph E4).

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K. Grounds For Rejection (continued)

A proposal shall be rejected if:

1. The proposer did not submit a Notice of Intent to Bid (Attachment 1) by the established deadline.
2. The proposal is received at any time after the exact time and date set for receipt of proposals (Public Contract Code, Section 10344[a]).
3. The Cover Sheet (Attachment 2) is unsigned.
4. The Bid Quote (Attachment 3) is not enclosed in a separate, sealed envelope clearly marked "Bid Quote" with the proposer's name on both the envelope and on the Bid Quote (Attachment 3). Only one (1) Bid Quote (Attachment 3) may be submitted for each proposer.
5. The Bid Quote is disclosed anywhere in the proposal except for on ATTACHMENT 3, BID QUOTE.
6. The proposer has been decertified from contracting with the State by the Department of Fair Employment and Housing.
7. The proposer has received a substantive negative contract evaluation from the State of California.
8. The proposal contains false or misleading statements or references that do not support an attribute or condition contended by the proposer; and if, in the opinion of the Agency, such information was intended to erroneously mislead the Agency in its evaluation of the proposal.
9. The proposal is marked confidential (excluding proposer's financial statements), conditional, incomplete or if it contains any irregularities.
10. The proposer has had a contract with the State of California canceled due to failure to comply with the Drug-Free Workplace Act of 1990 (see Paragraph P of this Section).

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L. Notice of Intent to Award

1. Award of the contract, if it is awarded, shall be to the lowest Bid Quote from proposers passing the minimum qualifications as outlined in SECTION V, MINIMUM QUALIFICATIONS and the scoring phases as outlined in SECTION VI, SELECTION PROCESS AND EVALUATION CRITERIA.
2. Upon selection of a proposed contractor, a Notice of Intent to Award will be posted for five (5) working days at the Agency; 1102 Q Street, Suite 6000; Sacramento, CA. This 5-day period is known as the "protest period." Should a proposer wish to protest the intended award, the protest must be filed during this protest period (see Paragraph M of this Section).
3. Proposals, cost data and evaluation forms will be regarded as public records after the contract is awarded under the California Public Records Act (Government Code, Section 6250 et seq.).
4. The Agency reserves the right to negotiate with any qualified proposer, or to modify or cancel in part or in its entirety the sample contract provisions if it is in the best interest of the Agency to do so.
5. The Agency reserves the right to not award a contract.

M. Protests

1. Only a proposer that has submitted a timely proposal in response to this RFP and is not awarded the resulting contract may file a protest.
2. A proposer who claims he/she would have been eligible for the award of the contract if the Agency had scored his or her proposal correctly, or if the Agency had correctly followed the procedures specified in the Public Contract Code, may file a protest.

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3. If a proposer chooses to protest the Notice of Intent to Award, the protesting proposer shall file with the Agency and DGS within five (5) working days of the date the Notice of Intent to Award is posted (protest period), a full and complete written statement specifying the grounds for the protest (Public Contract Code, Sections 10345(b)(1)). All protests must be submitted to both of the following entities:

Karen Kawada
California Technology, Trade and Commerce
Agency
Office of Small Business
1102 Q Street, Suite 6000
Sacramento, CA 95814

Protest Coordinator
California Department of General Services
Office of Legal Services
707 Third Street, 7th Floor
West Sacramento, CA 95605

M. Protests (continued)

4. There is no basis for protest if the Agency rejects all proposals, based on the interests of the State.
5. If no protest is filed with the Agency within five (5) working days of the date the Notice of Intent to Award was posted, the contract shall be awarded to the proposed contractor.

N. Debriefings

Written debriefings of the evaluation results will not be provided to unsuccessful proposers. Oral debriefings may be provided at the Agency's discretion.

O. Corporate Qualifications to do Business in California

1. In order to ensure all obligations due the State are fulfilled, when contracts are to be performed in the State by corporations, the Agency will obtain verification that the contractor is currently qualified to do business in California.
2. "Doing business" is defined in Revenue and Taxation Code, Section 23101 as actively engaging in any transaction for the purpose of financial or pecuniary gain or profit. While there are some statutory exceptions to taxation, it will be a rare instance when a corporate contractor performing within the State will not be subject to the franchise tax.

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3. Both domestic and foreign corporations (those incorporated outside of California) must be in good standing in order to be qualified to do business in California. Whether or not a corporation is in good standing may be determined by calling the Office of the Secretary of State, (916) 445-2900, and following the recorded directions.
4. The Agency and contractors may obtain assistance in evaluating a claim of exemption from the Franchise Tax Board. Inquiries should be directed to the Exempt Organizations Unit desk, at (916) 369-4171.

P. Drug Free Workplace Act of 1990

1. In submitting a bid to the Agency, the proposer offers and agrees that if the bid is accepted, it will certify under penalty of perjury under the laws of the State of California that it will comply with the requirements of the Drug-Free Workplace Act of 1990 (Government Code, Section 8350 et seq.) and will provide a drug-free workplace by:

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P. Drug Free Workplace Act of 1990 (continued)

- a. Publishing a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations, as required by Government Code, Section 8355(a).
 - b. Establishing a Drug-Free Awareness Program as required by Government Code, Section 8355 (b), to inform employees about:
 - 1) The dangers of drug abuse in the workplace;
 - 2) The person's or organization's policy of maintaining a drug-free workplace;
 - 3) Any available counseling, rehabilitation and employee assistance programs;
 - 4) Penalties that may be imposed upon employees for drug abuse violations; and,
 - c. Providing, as required by Government Code, Section 8355 (c), that every employee who performs work under the agreement will:
 - 1) Receive a copy of the Contractor's drug-free policy statement; and,
 - 2) Agree to abide by the terms of the Contractor's statement as a condition of employment under this agreement.
2. Failure to comply with these requirements may result in suspension of payments under the agreement or cancellation of the agreement or both and the Contractor may be ineligible for award of any future state contracts if the State determines that the Contractor:
- a. Has made a false certification; or,
 - b. Violates the certification by failing to carry out the requirements as noted above.

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Q. Antitrust Claims

1. In submitting a proposal to a public purchasing body, the proposer offers and agrees that if the bid is accepted, it will assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Section 15) or under the Cartwright Act (Chapter 2 [commencing with Section 16700] of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the proposer/proposer for sale to the purchasing body pursuant to the bid. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the proposer. (Government Code Section 4552.)
2. If an awarding body or public purchasing body receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the public body any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the public body as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. (Government Code Section 4553)
3. Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and (a) the assignee has not been injured thereby, or (b) the assignee declines to file a court action for the cause of action. (Government Code Section 4554)

R. Conflict of Interest

1. Current State Employees (Public Contract Code Section 10410)
 - a. No officer or employee shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any State agency, unless the employment, activity or enterprise is required as a condition of regular State employment.
 - b. No officer or employee shall contract on his or her own behalf as an independent contractor with any State agency to provide goods or services.

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2. Former State Employees (Public Contract Code Section 10411)

- a. For the two-year period from the date he or she left State employment, no former State officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the contract while employed in any capacity by any State agency.
- b. For the twelve-month period from the date he or she left State employment, no former State officer or employee may enter into a contract with any State agency if he or she was employed by that State agency in a policy-making position in the same general subject area as the proposer contract within the twelve-month period prior to his or her leaving State service.

S. Small Business Enterprise Preference

The Agency is committed to comply with Section 14835 et. seq. of the California Government Code which requires that a five (5) percent preference be given to bidders who qualify as a small business. The rules and regulations of this law including the definition of a small business for the delivery of service are contained in Title 2, California Code of Regulations, Section 1896, et. seq.

To claim the small business preference, a Proposer must complete Attachment 4 (Small Business Preference/State Contractor Identification Number).

T. Target Area Contract Preference Act (TACPA), Enterprise Zone Act (EZA), and Local Agency Military Base Recovery Area (LAMBRA) Act

Government Code Sections 4530, et seq., 7080 et seq., and 7118 et seq., provide that whenever any State agency Agreements for goods or services in excess of \$100,000 and the worksite is not fixed by the terms of the contract, preference will be granted to California-based bidders, if they meet the requirements specified in Title 2, California Code of Regulations, Section 1986.30 et seq., for the Target Area Contract Preference Act, Sections 19896.70-1896.81 for the Enterprise Zone Act (EZA) and Section 1896.10 for the Local Military Base Recovery Area (LAMBRA) Act. Proposers seeking these preferences must submit completed Standard Forms 830, 831 and/or 832 with their bid. As explained in

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these Standard Forms, the Contractor is allowed bidding preferences for each qualifying program (TACPA, EZA, LAMBRA and small business) and may receive a preference up to 15% or \$100,000. The preferences do not alter the amount of the resulting Agreement and are used only for bidding purposes.

Bidders may obtain copies of Standard Forms 830, 831 and 832 via the Internet at:
<http://www.osp.dgs.ca.gov>.

SECTION IV. SCOPE OF WORK

To prove capability for providing financial advisory/trust services, proposer (trustee) must describe qualifications, methodologies to be used, including procedures, records maintenance, accuracy checks, quality controls, examples of past projects, competency, ability to meet deadlines and managerial experience.

If any portion of the Scope of Work is proposed to be subcontracted, the proposer must document which portions of the work will be performed by subcontractors and their ability to perform the work. However, all subcontractors must be approved by the Agency. The proposer must make it clear to any subcontractors included in the proposal that even if the proposer is selected, the subcontractors may not necessarily be selected.

A. Qualifications

1. Proposer must provide a summary of the firm's key strengths and qualifications to serve as a trustee to the Agency, including how long it has managed public trust accounts.
2. Proposer must describe its view of the most important challenges and opportunities facing the Trust Account in connection with their investments.
3. Proposer must describe its (or its financial institution affiliate's) participation in the California Small Business Loan Guarantee Program. Proposer may submit report of Loan Guarantee Portfolio and/or proposal of future participation. **A proposer with a record of past participation will be scored higher than a proposer that has no participation. A proposer with a strong commitment for future participation will be scored higher than a proposer that has no or limited commitment for future participation. A proposer with unfilled past promises to participate will be scored lower than a proposer which has no unfilled promises to participate.**
4. Proposer must describe three (3) financial trust agreements over the last two (2) years that are most similar to this RFP. Proposer must indicate the name of the issuer, a description of the transaction(s), the individual(s) from the proposed firm involved and the value added by the proposed firm.
5. Proposer must describe in dollar volume, the number of trusts for which the firm has acted as a trustee within the last two (2) years.

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6. Proposer must describe any pending legal proceeding within the last three (3) years involving the firm, or an officer of the firm, alleging, or judgments involving, malpractice or violations of law in connection with the management of a trust.
7. Proposer may provide any additional information that would be of value to the Agency in the selection process.

B. Work Plan

The proposer must provide a comprehensive work plan, which must convey the proposer's knowledge of the subjects and skills necessary to manage the Trust Account. Within the work plan, the proposer must describe and define tasks and transactions involved, all investment options, processes, and reports used to manage the Trust Account. The work plan must include specific performance measures for each goal and how they will be evaluated.

Proposer must provide the following trustee services; and must provide proof of ability to invest the Trust Account, consistent with the following restrictions:

1. The trustee will manage assets held for the benefit of the Trust Account. Only the following Trust Account investments may be made; proposer must show ability to service:
 - a. Money market accounts issued by the banks, savings and loan associations domiciled in California;
 - b. Bankers acceptances issued by California banks;
 - c. United States Treasury Notes and Bills;
 - d. Investments permitted by statute or regulations; and,
 - e. Investments backed by the "full faith and credit" of the United States Government.

The trustee will invest the Trust Account, in those instruments selected by the trustee at its sole discretion, consistent with the above restrictions. This portion of the Trust Account is known as Managed Portion of the Trust Account.

2. The trustee will manage a portion of the Trust Account known as the Directed Portion of the Trust Account. With funds in the Directed Portion of the Trust Account, the trustee will purchase certificates of deposits from banks and savings and loans associations domiciled in California as instructed by the FDCs. These certificates of deposits will not exceed \$100,000 and the Directed Portion of the Trust Account shall not exceed one-third of the total Trust Account.
3. In accordance with the California Corporations Code, Section 14070 (c), OSB will authorize disbursements from the Trust Accounts to purchase loans made by the FDCs. These loans are

normally guaranteed by the Farm Service Agency (formerly known as the United States Farmers Home Administration). The trustee will receive instructions from the FDCs regarding disbursements, repayments and other transactions on these loans. So long as the FDCs instructions are within the written authorizations given by OSB to the trustee, the trustee will make and receive payments as ordered by the FDCs and maintain records on transactions and balances related to these individual loans.

B. Work Plan (continued)

In performing the trustee services herein, the proposer understands that:

4. All such investments shall be held by the trustee and shall be made and held on behalf of the State. The trustee may hold securities in its own vault or the vault of its affiliate; registered in the name of its nominee or the nominee of its affiliate; or where securities are eligible for deposit in a central depository such as the Depository Trust Company and The Federal Reserve Bank of New York. The trustee may utilize any such depository and permit the registration of registered securities in the name of its nominee, and the trustee and the nominee shall be held harmless from any liability as holders of records.

SECTION V. MINIMUM QUALIFICATIONS
Page 18 of 25

SECTION V. MINIMUM QUALIFICATIONS

These instructions prescribe the proposal content and format to be used and mandatory content to be included in each proposal. **PROPOSALS SHOULD BE PREPARED AND SUBMITTED IN THE FOLLOWING FORMAT TO ENSURE ACCURATE EVALUATION.**

The following list serves as the checklist to verify the inclusion of minimum qualifications. If any single item receives a negative response, the proposal may be eliminated from further review and considered non-responsive. FAILURE TO DEMONSTRATE OR EVIDENCE FULFILLMENT OF ALL MINIMUM QUALIFICATIONS MAY RESULT IN DISQUALIFICATION.

FOR AGENCY USE ONLY		
Proposer: _____	Reviewer: _____	Date: __/__/00

	Meets Requirements <u>YES</u> <u>NO</u>	
--	--	--

A. Proposal Package

The sealed proposal package(s) contains six (6) typed copies of the proposal (one original and five copies).	<input type="checkbox"/>	<input type="checkbox"/>
--	--------------------------	--------------------------

B. Bid Quote

The sealed proposal package(s) contains one (1) completed ATTACHMENT 3, BID QUOTE, in a separate, sealed envelope clearly marked "Bid Quote."	<input type="checkbox"/>	<input type="checkbox"/>
---	--------------------------	--------------------------

C. Proposal Format and Content

Respond and include each item listed, giving specific details of techniques to be used in meeting these requirements. Use of the following format/organization is strongly urged to ensure proper completion of the proposal.

1. Table of Contents with information organized as presented here and with corresponding page references.	<input type="checkbox"/>	<input type="checkbox"/>
---	--------------------------	--------------------------

2. ATTACHMENT 2, COVER SHEET is completed and signed.	<input type="checkbox"/>	<input type="checkbox"/>
---	--------------------------	--------------------------

SECTION V. MINIMUM QUALIFICATIONS
Page 19 of 25

		Meets Requirements	
		YES	NO
C. Proposal Format and Content (continued)			
3.	<u>Description of Organization:</u> Proposer must describe the firm, its ownership structure, nature of the organization's services and activities, when the business was established, and brief history. List the location(s) of the office(s) from which the primary work on this contract would be performed. Proposer must give evidence that it has a California office and will provide service through this location	<input type="checkbox"/>	<input type="checkbox"/>
4.	Trustee Advisory Team		
a.	<u>Contract Manager:</u> Identify one (1) individual on the proposer's staff who will be the primary contact and manage the contract work. Document overall experience as a financial advisor, with a minimum of five (5) years of service.	<input type="checkbox"/>	<input type="checkbox"/>
b.	<u>Team:</u> The proposer must identify the team and key personnel who will actually be involved in providing financial advisory services to the Agency. "Key Personnel" are defined as those people who will exercise a major management and/or administrative role on behalf of the proposer. Identify the role each team member will serve, title, where the individual is headquartered and the percentage of the firms totals effort that will be provided by the individual. Do not exceed two pages per person.	<input type="checkbox"/>	<input type="checkbox"/>
c.	<u>Resumes:</u> Provide resumes for each individual. Provide education, experience and expertise with pertinent information demonstrating qualifications for this RFP.	<input type="checkbox"/>	<input type="checkbox"/>
5.	<u>Scope of Work:</u> The proposal contains a Scope of Work that includes Qualifications and a Work Plan, as described in SECTION IV, SCOPE OF WORK.	<input type="checkbox"/>	<input type="checkbox"/>
6.	<u>Subcontractors:</u> Identify all proposed subcontractor(s) for work that exceeds \$5,000. Document which portions of service will be performed by subcontractors and their ability to perform the work. Include resumes of subcontractor(s) key personnel. Do not exceed two (2) pages per person.	<input type="checkbox"/>	<input type="checkbox"/>

The use of subcontractor(s) are subject to approval by the Agency. Therefore, not all work recommended by the proposer will necessarily be approved and not all subcontractors listed in the proposal will necessarily be selected. The proposer must make it clear to any subcontractors included in the proposal that even if the proposer is selected, the subcontractors may not necessarily be selected.

SECTION V. MINIMUM QUALIFICATIONS
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		Meets Requirements	
		YES	NO

C. Proposal Format and Content (continued)

7. Attachments

- | | | |
|---|--------------------------|--------------------------|
| a. Community Reinvestment Act ("CRA"). Provide a current copy of the proposers' CRA performance evaluation and rating. If the proposer is not a lender governed by CRA, then provide a current copy of the proposers' affiliate financial institution's CRA.) | <input type="checkbox"/> | <input type="checkbox"/> |
| b. Documentation of Incorporation. Proposer must provide evidence that its corporation is active and in good standing in the State of California. | <input type="checkbox"/> | <input type="checkbox"/> |
| c. Proposal contains a signed Noncollusion Statement (CTCA-021), Attachment 5. | <input type="checkbox"/> | <input type="checkbox"/> |
| d. Proposal contains a signed Nondiscrimination Compliance Statement (Std. 19), Attachment 6. | <input type="checkbox"/> | <input type="checkbox"/> |
| e. Proposal contains a Target Area Contract Preference Act Request (Std. 830), completed only if claimed. | <input type="checkbox"/> | <input type="checkbox"/> |
| f. Proposal contains an Enterprise Zone Act Preference Request, (Std. 831), completed only if claimed. | <input type="checkbox"/> | <input type="checkbox"/> |
| g. Proposal contains an Local Agency Military Base Recovery Act (Std. 832), completed only if claimed. | <input type="checkbox"/> | <input type="checkbox"/> |

10. If the proposer has passed all of the above, the Agency will confirm the following:

- | | Comments |
|---|----------------|
| a. Proposer has not been decertified from contracting with the Agency by the Department of Fair Employment and Housing. | _____
_____ |
| b. Proposer has not had a contract with the State of California canceled due to failure to comply with the Drug-Free Workplace Act of 1990. | _____
_____ |
| c. Proposer has not received a significant negative contractor evaluation from DGS. | _____
_____ |

SECTION VI. SELECTION PROCESS AND EVALUATION CRITERIA

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SECTION VI. SELECTION PROCESS AND EVALUATION CRITERIA

Each proposal shall be evaluated to determine responsiveness to the Agency's needs as described in this RFP. The Agency reserves the right at any time to reject any or all proposals. The selection process complies with the requirements for competitive bidding pursuant to Public Contract Code, Section 10344.

A. Process

1. Minimum Qualifications: After the period has closed for receipt of proposals, each proposal will first be evaluated to determine compliance with SECTION V, MINIMUM QUALIFICATIONS. Those proposals that pass the minimum qualifications review will then proceed to the Proposal Evaluation phase. If a proposal does not meet all requirements, it may be considered nonresponsive and be rejected from further competition.
2. Proposal Evaluation (Tier I): Proposals will be evaluated and scored according to specific and predetermined criteria as outlined in Paragraph B of this Section. Each proposal that scores eighty (80) points or more out of the total one-hundred (100) points in this scoring phase will then proceed to the Oral Interview phase. All proposals scoring less than eighty (80) points in this portion of the scoring will be rejected from further competition.
3. Oral Interviews: Evaluation of oral interviews will be according to specific and predetermined criteria as outlined in Paragraph C of this Section. Each proposer scoring forty (40) points or more in the oral interview will then proceed to the Public Bid Opening. All proposals scoring less than forty (40) points will be rejected from further consideration.
4. Public Bid Opening (Tier II): Sealed bids of finalists will be opened and ranked according to preferences and Bid Quote. The contract will be awarded to the lowest responsive bid, after any preferences are computed. Claims made for Small Business Preference (Attachment 4), Target Area Contract Preference (Attachment 7), Enterprise Zone Preference (Attachment 8), and Local Agency Military Base Recovery Act Preference (Attachment 9), are verified and points are awarded accordingly.
5. Notice of Intent to Award: A Notice of Intent to Award the contract will be posted for five (5)- working days at the Agency. The Notice of Intent to Award will also be faxed to all proposers on the day it is posted. Should a proposer wish to protest the intended award,

SECTION VI. SELECTION PROCESS AND EVALUATION CRITERIA

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it must be raised during this five (5)-day protest period (see SECTION III, RULES AND CONDITIONS, Paragraphs L and M).

6. Preliminary contract negotiations shall begin on or after the date the Notice of Intent to Award is posted.

SECTION VI. SELECTION PROCESS AND EVALUATION CRITERIA

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B. Proposal Evaluation Criteria (Tier I)

Proposals will be reviewed, evaluated and scored by an authorized evaluation committee. Evaluation of proposals will be based on the criteria shown as follows for each component; each component will be scored according to the degree of responsiveness present in the proposal being evaluated. A component score will not exceed the possible points shown for that component. The proposal score, before adjustment for any preference which may apply, will be the sum of the points allowed as assigned to each component.

<u>FOR AGENCY USE ONLY</u>	Proposer: _____
	Evaluated By: _____
	Date: _____

		Max. Points/Score
1.	Proposer demonstrated ability and capacity to effectively manage public trust funds. Proposer's quality of team experience and expertise in administering public trust accounts. (SECTION IV, SCOPE OF WORK, Paragraph A.)	25 _____
2.	Proposer demonstrated level of commitment to California and OSB Small Business Loan Guarantee Program. (SECTION IV, SCOPE OF WORK, Paragraph A.)	30 _____
3.	Proposers thoroughness, development, and specificity of the work plan and investment options; proposer's investment plan; proposer's understanding of program requirements, regulations and other factors that govern public trust in the State. (SECTION IV, SCOPE OF WORK, Paragraph B.)	30 _____
4.	Proposer's methodology, procedures, and analytical techniques used to administer the Trust Account, and demonstrated ability to meet the Agency's needs. (SECTION IV, SCOPE OF WORK, Paragraph B.)	15 _____
POINTS	TOTAL PROPOSAL EVALUATION	100 _____

SECTION VI. SELECTION PROCESS AND EVALUATION CRITERIA

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C. Oral Interview Evaluation Criteria

The evaluation committee will conduct oral interviews with all proposers whose proposals have passed the minimum qualifications and scored eighty (80) points or more in the proposal evaluation. The oral interviews may also be open to subcontractors, if requested by the evaluation committee. It is recommended that the team actually conducting the work attend the oral interview. The proposer's contract manager shall give the presentation. All oral interviews are expected to be held in Sacramento, but the evaluation committee reserves the right to conduct interviews at other designated sites or by a conference telephone call. The evaluation committee reserves the right to designate one or more member of the committee to conduct and score the oral interviews. If a proposer cannot meet on the designated interview date, the evaluation committee reserves the right to disqualify the proposer as being non-responsive.

The oral interview will allow qualified proposers the opportunity to demonstrate their understanding of the project, and to articulate their ability to meet or exceed the requirements of this RFP. No additional materials other than those offered in the original proposal may be brought forward for consideration during the interview. The following criteria will be used for scoring the oral interview.

<u>FOR AGENCY USE ONLY</u>	Proposer: _____
	Evaluated By: _____
	Date: _____

		Max. Points/Score
1.	Quality and completeness of answers to questions regarding the Trust Account management. Professionalism of team assigned to the project	20 ___
2.	Proposer's ability to integrate its ideas into the Agency's overall objectives.	10 ___
3.	Quality of proposed strategies and work samples.	20 ___
TOTAL ORAL INTERVIEW POINTS		50 ___
<u>TOTAL PROPOSAL POINTS</u>		<u>150 ___</u>

SECTION VI. SELECTION PROCESS AND EVALUATION CRITERIA

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D. Public Bid Opening (Tier II)

1. Those proposals scoring a total of eighty (80) points or more in the Proposal Evaluation will proceed to the oral interview evaluation, and only those proposers scoring a total of forty (40) points or more in the oral interview evaluation will advance to the Public Bid Opening.
2. The proposal containing the lowest Bid Quote, after the application of preference points, if claimed (see paragraph D4 of this Section), shall be awarded the contract.
3. Tie Breaker. If there is a tie in Bid Quotes, then the Bid Quotes will be ranked according to the total points earned in the Proposal Evaluation (Tier I). The proposer with the highest score will break the tie and be awarded the contract. In the event that there is a tie in Bid Quotes and in the total bid points earned in Proposal Evaluation (Tier I), then the award will be based on a coin toss, or other method determined to be appropriate by the Agency.
4. Preference points shall be applied as follows:
 - a. Small Business Preference, 5% of price - 2 _____
 - b. Target Area Preference, 9% of price - 3 _____
(5% - 7% = 2 points)
(8% - 9% = 1 points)
 - c. Enterprise Zone Preference, 9% of price - 3 _____
(5% - 7% = 2 points)
(8% - 9% = 1 points)
 - e. Local Agency Military Base Recovery Preference, 9% of price - 3 _____
(5% - 7% = 2 points)
(8% - 9% = 1 points)

SECTION VI. SELECTION PROCESS AND EVALUATION CRITERIA
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TOTAL PREFERENCE POINTS	11	_____
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<u>TOTAL POINTS</u>	<u>161</u>	_____
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SECTION VII. ATTACHMENTS

- 1 Notice of Intent to Bid
- 2 Cover Sheet
- 3 Bid Quote
- 4 Small Business Preference/State Contractor Identification Number (CTCA-020)
- 5 Noncollusion Statement (CTCA-021)
- 6 Nondiscrimination Compliance Statement (Std. 19)
- 7 Sample Contract and Contract Provisions

NOTICE OF INTENT TO BID*
RFP Trustee Services, SEL02-00135

**Must be received by the Agency at the address shown below no later than
TUESDAY, MAY 27, 2000, 2:00 P.M.**

MAIL or FAX to:
Karen Kawada
California Technology, Trade and Commerce Agency
Office of Small Business
1102 Q Street, Suite 6000
Sacramento, CA 95814
Voice Phone: (916) 323-5825 Fax Phone: (916) 322-3559

Name of Bidder/Company:
Contact Person:
Mailing Address:
Telephone:
FAX Number:
SIGNED:

* A Notice of Intent to Bid must be sent by the proposer and received by the addressee above in order for the proposal to be accepted for consideration. However, submittal of a Notice of Intent to Bid does not obligate the proposer to submit a proposal.

COVER SHEET

The submission of this Proposal does not obligate the Agency to fund the proposed contract. If the Proposer is selected as the Awardee, a contract will be executed between the Agency and the Awardee. The Awardee will be required to adhere to the terms of the executed contract.

(a) Full Legal Name of Proposer's Organization _____
Please print or type

(b) Mailing Address: _____
Street City/County Zip Code Telephone FAX

Address and telephone number of California office _____
Street City/County Telephone

(c) Federal Taxpayer Identification Number: _____

(d) Status of Proposer submitting a Proposal (*check applicable one*)

(1) ☐ **Nonprofit Corporation**

Place and date of incorporation: _____

Date Corporation was authorized to do business in California: _____

President: _____

Vice President: _____

Secretary: _____

Treasurer: _____

Other Officers (Executive Officer): _____

(2) ☐ **Local Government or Public Organization**

Name and Title of: Mayor, Chair of Board of
Supervisors, School District, Community
College District or Chair of Board of Governor:

Name and Title of: City Manager, County
Executive, Superintendent of Schools, or
President, Community College:

(3) ☐ **For-Profit Business or Individual**

Name of For-Profit Business or Individual

(e) Certification: I hereby certify that the information contained in this Proposal is, to the best of my knowledge, complete and accurate; that the Proposer named above has authorized me, as its representative, to submit this Proposal; and that the Proposal and cost information is valid for ninety (90) days from the date of submission.

Signature

Date

Representative Printed Name and Title of Authorized

BID QUOTE
SEALED

This Bid Quote format shall not be altered.

TRUSTEE SERVICES

1. Proposed quarterly rate for trustee management and investment of the Trust Account
(Managed portion of the Trust Account). _____% of 1.0%
2. Proposed quarterly rate for trustee management of the Directed Portion of the Trust Account. _____% of 1.0%
3. Proposed quarterly rate for service of Trust Account disbursements to purchase FDC loans. _____% of 1.0%

TOTAL QUARTERLY RATE FOR TRUST SERVICES _____% of 1.0%*

*This would be the maximum charge, however, the trustee may charge less for managing a certain type of asset. For example, the trustee may charge a lesser fee for funds held in a money market account, but up to the maximum for the balance of the Trust Account.

All costs associated with this proposal shall be included in this Bid Quote. The fee charged shall be expressed as a percentage of Trust Account funds. The fee shall encompass all costs, including any travel expenditures.

Signature of authorized representative on behalf of the proposer

Date

Printed Name and Title

Printed Name of Firm/Organization

SMALL BUSINESS PREFERENCE /
STATE CONTRACTOR IDENTIFICATION NUMBER
RFP SEL02-00135
(CTCA-020) (Rev. 4/95)

ATTACHMENT 4

Section 14835, et. seq. of the California Government Code requires that a five (5) percent preference be given to bidders who qualify as a small business. The rules and regulations of this law including the definition of a small business for the delivery of service, are contained in Title 2, California Code of Regulations, Section 1896, et seq. A copy of the regulations is available upon request.

To claim small business preference, which may not exceed \$50,000.00 for any bid, your firm must:

1. Have its principal place of business located in California,
2. Have a complete application (including proof of annual receipts) on file with the State Office of Small Business Certification and Resources (OSBCR) by 5:00 p.m. on the date bids are opened,
3. Be verified by such office; and
4. Have a copy of their OSBCR small business certification approval letter included in the proposal package.

Questions regarding the preference approval process should be directed to OSBCR at (916) 322-5060.

Please indicate if you are claiming preference as a small business?

☐ **Yes**☐ **No**

*(if yes, attach copy of OSBCR Small
Business Certification Approval Letter)*

*Small Business Number
(for bidders claiming small business preference)*

Federal Employer ID Number or Taxpayer ID Number (Social Security No.)

Signature of authorized representative on behalf of the proposer

Date

Company/Organization_____

Address: _____
Street City/County Zip Code Telephone

(please print or type)

I, _____,

representing, _____,

do hereby certify that neither myself nor any other person representing the above named
firm has made any attempt verbally or otherwise to induce any person or firm to not submit
a proposal for the purpose of restricting competition which may result in a contract award
by the California Technology, Trade and Commerce Agency.

Signature of authorized representative on behalf of the proposer

Date

Printed Name and Title

NONDISCRIMINATION COMPLIANCE STATEMENT

STD. 19 (Rev. 2/93)

RFP SEL02-00135**ATTACHMENT 6***Please type or print*

COMPANY NAME

The company named above (hereinafter referred to as "prospective contractor") hereby certifies, unless specifically exempted, compliance with Government Code Section 12990 (a-f) and California Code of Regulations, Title 2, Division 4, Chapter 5 in matters relating to reporting requirements and the development, implementation and maintenance of a Nondiscrimination Program. Prospective contractor agrees not to unlawfully discriminate, harass or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (cancer), age (over 40), marital status and denial of family care leave.

CERTIFICATION

I, the official named below, hereby swear that I am duly authorized to legally bind the prospective contractor to the above described certification. I am fully aware that this certification, executed on the date and in the county below, is made under penalty of perjury under the laws of the State of California.

OFFICIAL'S NAME

DATE EXECUTED

EXECUTED IN THE COUNTY OF

PROSPECTIVE CONTRACTOR'S SIGNATURE

PROSPECTIVE CONTRACTOR'S TITLE

PROSPECTIVE CONTRACTOR'S LEGAL BUSINESS NAME

STANDARD AGREEMENT ---

STD. 2 (REV. 5-91)

APPROVED BY THE
ATTORNEY GENERAL

CONTRACT NUMBER C##-####	AMEND. NO.
TAXPAYER'S FEDERAL EMPLOYER IDENTIFICATION NUMBER ##-#####	

THIS AGREEMENT, made and entered into this 1st day of November, 2003
in the State of California, by and between State of California, through its duly elected or appointed, qualified and acting

TITLE OF OFFICER ACTING FOR STATE

AGENCY

California Technology, Trade and
Commerce Agency

, hereafter called the State, and

CONTRACTOR'S NAME

NAME OF CONTRACTOR

, hereafter called the Contractor.

WITNESSETH: That the Contractor for and in consideration of the covenants, conditions, agreements, and stipulations of the State hereinafter expressed, does hereby agree to furnish to the State services and materials as follows: *(Set forth service to be rendered by Contractor, amount to be paid Contractor, time for performance or completion, and attach plans and specifications, if any.)*

WHEREAS, Corporations Code section 14035 established the Small Business Loan Guarantee Account, as part of the Small Business Expansion Fund; and

WHEREAS, Corporations Code section 14036 established the California Small Business Financial Development Corporation Loan Guarantee Fund, defined as the Corporate Fund in Corporations Code section 14010(e), to receive allocations of money from the Small Business Loan Guarantee Account. There is a Corporation Fund established by each of the several Corporations; and

WHEREAS, the Contractor agrees to perform the trust services for the Corporate Fund;

NOW THEREFORE, the parties agree as follows:

IN WITNESS WHEREOF, this agreement has been executed by the parties hereto, upon the date first above written.

STATE OF CALIFORNIA		CONTRACTOR	
AGENCY		CONTRACTOR (If other than an individual, state whether a corporation, partnership, etc.)	
California Technology, Trade and Commerce Agency		Name of Contractor	
BY (AUTHORIZED SIGNATURE)		BY (AUTHORIZED SIGNATURE)	
PRINTED NAME OF PERSON SIGNING		PRINTED NAME AND TITLE OF PERSON SIGNING	
TITLE		ADDRESS	
AMOUNT ENCUMBERED BY THIS DOCUMENT	PROGRAM/CATEGORY (CODE AND TITLE)	FUND TITLE	Department of General Services Use Only
	(OPTIONAL USE)		
PRIOR AMOUNT ENCUMBERED FOR THIS CONTRACT	ITEM	CHAPTER	
	STATUTE	FISCAL YEAR	
TOTAL AMOUNT ENCUMBERED TO DATE	OBJECT OF EXPENDITURE (CODE AND TITLE)		
I hereby certify upon my own personal knowledge that budgeted funds are available for the period and purpose of the expenditure stated above.		T.B.A. NO.	B.R. NO.
SIGNATURE OF ACCOUNTING OFFICER		DATE	

<input type="checkbox"/>	CONTRACTOR	<input type="checkbox"/>	STATE AGENCY	<input type="checkbox"/>	DEPT OF GEN. SER.	<input type="checkbox"/>	CONTROLLER	<input type="checkbox"/>
--------------------------	------------	--------------------------	--------------	--------------------------	-------------------	--------------------------	------------	--------------------------

SECTION 1. DEFINITION OF TERMS

- (a) "Corporate Fund" means the California Small Business Financial Development Corporation Loan Guarantee Fund.
- (b) "Corporation" means a nonprofit California small business financial development corporation as defined in Corporations Code Section 14010(a).
- (c) "Corporation Fund" means that fund established by each of the several Corporations to receive allocations from the Corporate Fund.
- (d) "OSB" means the State's Office of Small Business.

SECTION 2. COMMENCEMENT AND EXPIRATION DATES

The term of this Contract shall be from November 1, 2003, or date of final approval, whichever occurs later, through October 31, 2006. The State reserves the right to cancel this Contract prior to the expiration date pursuant to Section 14.

SECTION 3. CONTRACTOR FEE

- (a) The total Contractor fee for performing the services specified in this Contract shall be calculated on the aggregate market value of the assets held in the Corporate Fund at the close of each calendar quarter, including income that has been retained and reinvested, and shall be consistent with Section 5. Payment shall be made pursuant to Sections 8 and 9.
- (b) The Contractor fee shall be calculated at the quarterly rate of #.## of 1.0% of the value of the assets, as that term is defined in paragraph (a) of this Section, in the Corporate Fund. No additional fees or costs shall be charged by the Contractor.
- (c) The Contractor fee provisions shall not be increased or decreased without an amendment to this Contract.

SECTION 4. ESTABLISHMENT OF CORPORATE FUNDS

Monies contained within the Corporate Fund are transferred to the Contractor, in trust with the State as the beneficiary, for the purpose of investing such funds. The Contractor shall provide complete trust services for the Corporate Fund as specified herein.

SECTION 5. INVESTMENT OF THE CORPORATE FUNDS

- (a) The Corporate Fund held by the Contractor shall be invested by Contractor, except as specified in paragraphs (c) and (d) of this Section, only in the following:

- (1) Contractor's money market deposit accounts;

SECTION 5. INVESTMENT OF CORPORATE FUNDS (continued)

- (2) U.S. treasury notes and bills; and,
 - (3) Investments backed by the “full faith and credit” of the United States Government, except for any investments issued by Contractor, other than as set forth in paragraph (a)(1) of this Section.
- (b) The State certifies that each of the investment types listed in paragraph (a) of this Section is a legal investment for the Corporate Fund, and the Contractor is authorized to rely on the State’s certification as to the legality of such investment.
- (c) The Contractor shall be authorized to invest up to one third (1/3) of each Corporation’s corporate fund, as directed by the Corporation, only in certificates of deposits which meet both of the following requirements:
- (1) They are issued by banks and savings and loans associations in which State funds may be deposited pursuant to Government Code section 16500.5; and,
 - (2) They are insured by the Federal Deposit Insurance Corporation.
- (d) The total aggregate amount of certificates of deposits outstanding at any one time from any one bank or savings and loan association shall not exceed \$100,000. The Contractor shall not permit the one-third (1/3) investment limit described in paragraph (c) of this Section to be exceeded. The State shall provide the Contractor with a list and a sample signature of each representative of each Corporation authorized to direct such investment.
- (e) In accordance with Corporations Code section 14070(c), OSB shall authorize disbursements in writing, pursuant to Section 7(b), from the Corporate Fund to purchase loans made by the Corporations. These loans are normally guaranteed by the Farm Service Agency. The Contractor shall receive instructions from the Corporations regarding disbursements, repayments and other transactions on these loans. So long as the Corporations’ instructions are within the written disbursement authorizations given by OSB to the Contractor, the Contractor shall make disbursements to and receive payments from the Corporations as ordered or paid by the Corporations. The Contractor shall further maintain complete and accurate records on transactions and balances related to these individual loans, provided that the Contractor is furnished timely information from the Corporations as to all payments made and received with respect to each such loan.

- (f) All investments shall be held by the Contractor and shall be made and held on behalf of the State. The Contractor may hold securities in its own vault or the vault of its affiliate; registered in the name of its nominee or the nominee of its affiliate; or where securities are eligible for deposit in a central depository such as the Depository Trust Company and The Federal Reserve Bank of New York. The Contractor may utilize any such depository and permit the registration of registered securities in the name of its nominee, and the Contractor and the nominee shall be held harmless from any liability as holders of records.

SECTION 6. REPORTS AND STATEMENTS

- (a) The Contractor shall provide to the State, within fifteen (15) days of the end of each calendar month, a report indicating the investments of each Corporation Fund.
- (b) The report shall show the monthly beginning balance, accounts holding cash; amounts invested indicating type of investment and rate of return, deposits received from the State, income and withdrawals.
- (c) The report shall also include such other items as may be mutually agreed upon by the parties.

SECTION 7. WITHDRAWAL OF FUNDS FROM THE CORPORATE FUND

- (a) Funds shall be withdrawn by the Contractor from the Corporate Fund, only to fund loans as provided in Section 5(e), upon the prior written approval of authorized representatives of the State and as provided in the third sentence of this paragraph. The Contractor shall not be held liable for relying upon a request for withdrawal pursuant to a written request signed by the authorized representative of the State. Withdrawals may include payments to the Corporations for administrative expenses, loan guarantee payments (defaults) and disbursements on farm loans.
- (b) Funds may be withdrawn by the State from the Corporate Fund upon providing written demand to the Contractor. The written demand provided to the Contractor must be signed by at least one of the following State representatives: 1) Director, OSB; 2) Manager, OSB, Finance Program; 3) Deputy Secretary, Administration and Finance; or (4) Fiscal Officer, Administrative Services.
- (c) The State shall provide the Contractor with signature samples of the State representatives authorized to request disbursements of Corporate Fund monies.

SECTION 8. BUDGET REQUIREMENTS

- (a) State resources, not to exceed Section 3(b), shall constitute the maximum liability of the State to support the Contractor under this Contract.

- (b) The consideration to be paid the Contractor, shall be compensation for all of the Contractor's expenses pursuant to this Contract, including, but not limited to, labor, employee fringe benefits, operating expenses, overhead, employer taxes and insurance, subcontracting services, out-of-pocket expenses for travel and subsistence, and taxes due on equipment.
- (c) The Contractor shall not receive additional compensation for reimbursement or for costs not identified in Section 3, and shall not decrease the work to compensate therefor.

SECTION 9. PAYMENT AND EXPENDITURE PROVISIONS

- (a) In no event shall the Contractor charge fees for obligations entered into or for costs incurred prior to the commencement date, pursuant to Section 2, or after the expiration or cancellation of this Contract.
- (b) The Contractor may submit, in arrears, not more than quarterly, an invoice to the State. The invoice shall be consistent with the amounts determined by Section 3(b). Requests for Contractor's fees shall be substantiated by supplying the State with the supporting documentation as required by Section 6. The State agrees to make payment as promptly as fiscal procedures permit, subject to approval of the Contract Manager.

SECTION 10. GENERAL PROVISIONS

- (a) The Contractor shall indemnify, defend and hold harmless the State and its officers, agents and employees from and against any and all claims and losses accruing or resulting to any and all contractors, subcontractors, material persons, laborers and any other person, firm or corporation furnishing or supplying work, services, equipment, materials or supplies in connection with the performance of this Contract, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by the Contractor in the performance of this Contract. The Contractor agrees to include the State in any consultant or subcontract agreement as a named indemnitee.
- (b) The Contractor, subcontractor(s), and the agents and employees of the Contractor, in the performance of this Contract, shall act in an independent capacity and not as officers, employees or agents of the State.
- (c) Neither the State nor the Contractor shall assign this Contract in whole or in part.
- (d) This Contract shall inure to the benefit and bind the successors of each of the parties.
- (e) This Contract shall be governed by and shall be interpreted in accordance with the laws of the State of California. The Contractor warrants, represents and agrees that it and its subcontractors, employees and representatives shall at all times comply with all applicable State contracting laws, codes, rules and regulations in the performance of this Contract.
- (f) Time is of the essence in this Contract.

SECTION 11. RECORD ESTABLISHMENT, ACCESS AND RETENTION

- (a) The Contractor agrees that the State or its delegatee shall have the right to review, obtain, and copy all records pertaining to performance of this Contract. The Contractor agrees to provide the State or its delegatee with any relevant information requested and shall permit the State or its delegatee access to its premises, upon reasonable notice, during normal business hours for the purpose of interviewing employees and inspecting and copying such books, records, accounts, and other material that may be relevant to a matter under investigation for the purpose of determining compliance with Government Code Section 8546.7. The Contractor further agrees to maintain such records for a period of three (3) years following final payment under this Contract. In the event of a Contract performance or payment dispute, the records retention period shall be extended until the dispute is resolved.
- (b) Upon inspection, the Contractor shall promptly implement any corrective measures recommended by the State, its representatives or the Bureau of State Audits regarding the requirements of this Section. The Contractor shall be given a reasonable amount of time to implement said corrective measures. Failure of the Contractor to implement recommended corrective measures shall result in immediate cancellation of this Contract.
- (c) The Contractor shall keep all books, records, accounts and documents pertaining to this Contract separate from other activities unrelated to this Contract.

SECTION 12. ACCOUNTING AND AUDITING REQUIREMENTS

- (a) The Contractor hereby certifies that its accounting system is:
 - (1) In accordance with Generally Accepted Accounting Principles and practices, consistently applied; and
 - (2) Capable of identifying all eligible and ineligible costs.
- (b) Should an audit by the State result in disallowance of fees previously disbursed to the Contractor, or identify missing or unaccounted for funds managed by the Contractor pursuant to this Contract, the Contractor shall reimburse all disallowed, missing or unaccounted for funds to the State within thirty (30) days of receipt of the demand for reimbursement by the State. Failure to reimburse or pay the State, if unresolved pursuant to the dispute resolution procedure set forth in Section 21, shall result in possible litigation, in which case the prevailing party shall be entitled to reasonable attorney's fees and costs.

SECTION 13. COMMUNICATION

- (a) **James A. Young**, or designee, shall be the **Contract Manager** for this Contract. This person shall have overall responsibility to administer, evaluate and follow-up the work of the Contractor during the term of this Contract.
- (b) All official communication and invoices from the Contractor to the State, except as provided for in Section 21, shall be directed to the attention of the individual in paragraph (a) of this Section at the following address and phone/fax numbers:

California Technology, Trade and Commerce Agency
Office of Small Business1102 – Q Street, Suite 600
Sacramento, CA 95814
Phone 916-445-6733 Fax 916-322-5084

- (c) All official communications from the State to the Contractor shall be directed to the attention of **John/Jane Doe**, or designee, at the following address and phone/fax numbers:

Name of Contractor
Address
City, State ZIP Code
Phone: ###-###-#### Fax: ###-###-####

SECTION 14. CANCELLATION AND AMENDMENT PROVISIONS

- (a) No oral understanding or variation of the terms of this Contract is valid without an amendment to this Contract.
- (b) This Contract may be canceled at any time by either party, in writing with thirty (30) days advance notice. If canceled, payment shall be made only for performance authorized up to the date of cancellation. In the case of cancellation or expiration, a final payment will be made to the Contractor upon receipt of an invoice covering all costs incurred which were previously authorized prior to notice of cancellation or expiration and a full written reconciliation of the Corporate Funds, including earnings thereon, in a manner acceptable to the State. Upon cancellation or expiration, the Corporate Funds shall be transferred pursuant to written instructions from the State.
- (c) If a dispute arises concerning such Contractor fees, or appropriate accounting of the Corporate Fund, including earnings thereon, an amount sufficient to cover the Contractor fees shall be set aside. All remaining assets of the Corporate Fund, including accumulated but unwithdrawn income, shall be transferred pursuant to written instructions from the State.

SECTION 14. CANCELLATION AND AMENDMENT PROVISIONS (continued)

- (d) Notwithstanding paragraph (b) of this Section, the State may cancel this Contract verbally in whole or part and later follow-up with written confirmation, giving the Contractor less than thirty (30) calendar days advance notice if serious defaults in either the Contractor's performance, or compliance with the terms of this Contract are detected. "Serious default in performance" means the failure to comply with the terms and/or requirements of this Contract.
- (e) Neither party hereto shall be considered in default in the performance of its obligations hereunder to the extent that the performance of any such obligations is prevented or delayed by any cause, existing or future, which is beyond the reasonable control of such party.
- (f) If the Contractor seriously defaults in performance, the State may cancel this Contract and proceed with the work in any manner deemed proper by the State. The cost to the State for completion of the work shall be deducted from any sum due the Contractor under this Contract, and the balance, if any, shall be paid to the Contractor upon demand.

SECTION 15. NONDISCRIMINATION CLAUSE AND COMPLIANCE STATEMENT

- (a) By signing this Contract, the Contractor and its subcontractors agree that it shall not, during the performance of this Contract, unlawfully discriminate, harass or allow harassment, against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, disability (including HIV and AIDS), medical condition (cancer), age, marital status, denial of family and medical care leave or denial of pregnancy disability leave. The Contractor and its subcontractors shall ensure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. The Contractor and its subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code section 12900 *et seq.*), and the applicable regulations promulgated thereunder (Title 2, California Code of Regulations, Section 7285.0 *et seq.*). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code section 12990 (a)-(f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations are incorporated into this Contract by reference and made a part hereof as if set forth in full. The Contractor and its subcontractor shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.
- (b) The Contractor shall include the nondiscrimination and compliance provisions as detailed in paragraph (a) of this Section, in all subcontracts to perform work under this Contract.

SECTION 16. AMERICANS WITH DISABILITIES ACT CERTIFICATION

By signing this Contract, the Contractor assures the State that it complies with the Americans with Disabilities Act of 1990, (42 U.S.C. 12101 *et seq.*), which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the Act.

SECTION 17. NATIONAL LABOR RELATIONS BOARD CERTIFICATION

By signing this Contract, the Contractor does swear under the penalty of perjury that no more than one (1) final unappealable finding of contempt of court by a federal court has been issued against the Contractor within the immediately preceding two-year period because of the Contractor's failure to comply with an order of a federal court which ordered the Contractor to comply with an order of the National Labor Relations Board.

SECTION 18. CERTIFICATION OF DRUG-FREE WORKPLACE

- (a) By signing this Contract, the Contractor hereby certifies under penalty of perjury under the laws of the State of California that the Contractor shall comply with the requirements of the Drug-Free Workplace Act of 1990 (Government Code section 8350 *et seq.*) and will provide a drug-free workplace by:
 - (1) Publishing a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations, as required by Government Code section 8355(a);
 - (2) Establishing a Drug Free Awareness Program as required by Government Code section 8355(b), to inform employees about:
 - (A) The dangers of drug abuse in the workplace;
 - (B) The person's or organization's policy of maintaining a drug-free workplace;
 - (C) Any available counseling, rehabilitation and employee assistance programs; and;
 - (D) Penalties that may be imposed upon employees for drug abuse violations; and,
 - (3) Providing, as required by Government Code section 8355(c), that every employee who performs work under this Contract shall:
 - (A) Receive a copy of the Contractor's drug-free policy statement; and,
 - (B) Agree to abide by the terms of the Contractor's statement as a condition of employment under this Contract.
- (b) Failure to comply with these requirements may result in suspension of payments under this Contract or cancellation of this Contract and the Contractor may be ineligible for award of any future State contracts if the State determines that the Contractor:
 - (1) Has made a false certification; or,

- (2) Violates the certification by failing to carry out the requirements as noted above.

SECTION 19. CERTIFICATION OF RECYCLED CONTENT

The Contractor shall certify in writing, under penalty of perjury, the minimum, if not exact, percentage of recycled content of both post-consumer material and secondary material as defined in Public Contract Code sections 12161 and 12200, in materials, goods or supplies offered, or products used in the performance of this Contract, regardless of whether the product meets the required recycled product percentage as defined in Public Contract Code sections 12161 and 12200. The Contractor may certify that the product contains zero recycled content. The Recycle Certification shall be delivered to the State not more than thirty days (30) calendar days following the expiration or cancellation of this Contract.

SECTION 20. EVALUATION OF CONTRACTOR'S PERFORMANCE

The Contractor is hereby notified that its performance under this Contract may be evaluated within thirty (30) calendar days following the expiration or cancellation of this Contract. The evaluation may include statements on the adequacy of the service or the product, whether the service was satisfactory, whether the service or the product was provided or completed within the time limitations, reasons for time or cost overruns, whether the product is operational or being utilized by the State, and/or State plans for implementation, and the State's general impression as to the competency of the Contractor and its staff. The evaluation shall be filed in the State's official Contractor Evaluation File.

SECTION 21. RESOLUTION OF DISPUTES

- (a) If the Contractor disputes any action by the Contract Manager arising under or out of the performance of this Contract, the Contractor shall notify in writing the Contract Manager within thirty (30) calendar days of the Contract Manager's action and request a decision. The Contract Manager shall issue a written decision within thirty (30) calendar days following the Contractor's notice. If the Contractor disagrees with the Contract Manager's decision, the Contractor shall submit a formal request to the State's Deputy Secretary, Administration and Finance.
- (b) The decision of the Deputy Secretary, or designee, shall be the final administrative review and shall be conclusive on the dispute unless the decision is determined by a court to be arbitrary, capricious, or if any determination of fact is unsupported by evidence. The decision may encompass facts, interpretations of this Contract, and determinations or applications of law. The decision shall be in writing following an opportunity for the Contractor to present documentary evidence and written arguments in support of the matter.
- (c) The Contractor shall continue with the responsibilities under this Contract during any dispute until the expiration or cancellation of this Contract.